REMARKS

Claim 1 is amended to incorporate the subject matter of claims 4 and 6. Accordingly, claims 4 and 6 are canceled. Claims 14 and 16 are amended to further clarify the subject matter.

These after-final amendments do not raise any new issue that would require further consideration and/or search by the Examiner as they simply incorporate subject matter from dependent claims (which have already been searched). Therefore, Applicants respectfully request entry of these amendments.

REJECTIONS UNDER § 102

Claims 1-5 and 7-31 were rejected under § 102(b) as allegedly being anticipated by U.S. Patent No. 6,178,349 (Kieval) in combination with U.S. Patent No. 5,344,438 (Testerman et al.). Applicants respectfully request reconsideration of this rejection.

Claims 1-5 and 7-13

Independent claim 1 recites a delivery device comprising a first, second, and third series of flexibly connected delivery contacts, wherein "the first series of flexibly connected delivery contacts has a first diameter, the second series of flexibly connected delivery contacts has a second diameter, and the third series of flexibly connected delivery contacts has a third diameter, the third diameter being greater than the first diameter and the third diameter being greater than the second diameter in an operative position of the device."

The Office Action asserts that nerve stimulators 92 and 94 in FIG. 1 of *Kieval* correspond to the first and second series of delivery contacts recited in claim 1. Without conceding that these nerve stimulators 92 and 94 actually correspond to a first and second series of delivery contacts, the device of *Kieval* does not have a third series of delivery contacts. Furthermore, the device of *Kieval* does not have any series of delivery contacts with the diameters specified by claim 1.

For at least these reasons, Applicants respectfully submit that claims 1-5 and 7-13 are not anticipated by either *Kieval* or *Testerman*. Accordingly, favorable consideration and withdrawal of this rejection are respectfully requested.

Claims 14-18

Independent claim 14 recites an assembly for stimulating ganglia comprising a " first probe having one or more prongs for insertion in a ganglion" and a "second probe having one or more prongs for insertion in a ganglion." For example, referring to the embodiment shown in FIG. 14, neurostimulation assembly 200 has a first probe 210a and a second probe 210b that have prongs for insertion into a ganglion.[1] In another example, referring to the embodiment shown in FIG. 15, a neurostimulation assembly has a first probe 210 with dual prongs 210a' and 210a''; and a second probe 210b with dual prongs 210b' and 210b''.[2]

Unlike the invention of claim 14, neither *Kieval* nor *Testerman* teach a probe having "one or more prongs for insertion into a ganglion." For at least these reasons, Applicants respectfully submit that claims 14-18 are not anticipated by either *Kieval* or *Testerman*. Accordingly, favorable consideration and withdrawal of this rejection are respectfully requested.

Claims 19-22

Independent claim 19 recites an assembly for stimulating ganglia comprising an axially elongated shaft with first and second terminal members that are slidably engagable with the outer surface of the shaft. For example, referring to the embodiment shown in FIG. 17, neurostimulation assembly 200 has a shaft 170.[3] First and second terminal members, 280a and 280b, are slidably engagable with the outer surface 180 of shaft 170. Each terminal member, 280a and 280b, has a generally concave configuration such that it is adjacently positionable to a ganglion 300.

Unlike the invention of claim 19, neither the device of *Kieval* or *Testerman* have the above-mentioned features. The Office Action asserts that leads 96 and 98 in FIG. 1 of *Kieval* correspond to an axially elongated shaft and that the suture structure of electrode body 112 is slidable along the lead. Applicants disagree that leads 96 and 98 correspond to an axially elongated shaft. But even if such were the case, neither the suture nor electrode body 112 is described to be slidable along leads 94 and 96 (which the Office Action purports to correspond to the "axially elongated shaft" of claim 19).

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[1] Specification, pg. 12, lns. 15-30.
[2] Specification, pg. 12, lns. 28-30.
[3] Specification, pg. 13, ln. 30 – pg. 14, ln. 8.

For at least these reasons, Applicants respectfully submit that claims 19-22 are not anticipated by either *Kieval* or *Testerman*. Accordingly, favorable consideration and withdrawal of this rejection are respectfully requested.

Claims 23-27

Independent claim 23 recites an assembly for stimulating ganglia comprising an axially elongated shaft with first and second delivery structures that are slidably engagable with the outer surface of the shaft. For the same reasons explained above, neither *Kieval* nor *Testerman* teaches delivery structures that are slidably engagable to an axially elongated shaft shaft. For at least these reasons, Applicants respectfully submit that claims 23-27 are not anticipated by either *Kieval* or *Testerman*. Accordingly, favorable consideration and withdrawal of this rejection are respectfully requested.

Claims 28-31

Independent claim 28 recites a method of stimulating a ganglion involving the step of "encasing a delivery device around at least a portion of a ganglion." Independent claim 30 recites a method of stimulating sympathetic ganglia involving "placing the first ganglion stimulator adjacent to a first ganglion."

As explained above, the devices of *Kieval* and *Testerman* are designed for use with nerves, not ganglia. As such, there is no teaching of "encasing a delivery device around at least a portion of a ganglion" as required by claim 28, or of "placing the first ganglion stimulator adjacent to a first ganglion" as required by claim 30. For at least these reasons, Applicants respectfully submit that claims 28-31 are not anticipated by either *Kieval* or *Testerman*. Accordingly, favorable consideration and withdrawal of this rejection are respectfully requested.

REJECTIONS UNDER § 102/103

Claim 5 was rejected as allegedly being anticipated under § 102(a), or alternatively, being rendered obvious under § 103(a) by *Kieval*. Claim 6 was rejected under § 103(a) as allegedly being rendered obvious by *Kieval*. The subject matter of claim 6 is incorporated into claim 1 and

claim 6 is now canceled. Applicants respectfully request reconsideration of the rejection of claim 5.

Claim 5 depends from claim 1, which recites a device comprising three series of flexibly connected delivery contacts, with the diameter of the third series being greater than the diameter of the first and second series. For example, referring to the embodiment shown in FIG. 4, delivery device 10 has three series of flexibly connected delivery contacts: a first series (top), a second series (bottom), and a third series (middle).[4] The third series has a larger diameter than the first series and second series. This allows device 10 to form "a substantially ovoid configuration to conform to the configuration of a ganglion."[5]

Kieval does not teach a device having these features. Further, there is no reason to modify *Kieval* to have three series of flexibly connected delivery contacts, with the third series having a larger diameter than the first and second series. The cylindrically-shaped electrode of *Kieval* is designed for use with nerves, not ganglions. As such, *Kieval* has no need to form a substantially ovoid configuration to conform to the configuration of a ganglion.

For at least these reasons, Applicants submit that claim 5 is both novel and non-obvious over *Kieval*. Accordingly, favorable consideration and withdrawal of this rejection are respectfully requested.

[4] Specification, pg. 7, lns. 21-32.
[5] Specification, pg. 7, lns. 23-24.

CONCLUSION

Applicants respectfully submit that the present application is in condition for allowance. The Examiner is invited to contact Applicants' representative to discuss any issue that would expedite allowance of this application.

The Commissioner is authorized to charge all required fees, fees under § 1.17, or all required extension of time fees, or to credit any overpayment to Deposit Account No. 11-0600 (Kenyon & Kenyon LLP).

Respectfully submitted,

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